

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

John D. West, on Behalf of Himself and
All Other Persons Similarly Situated,

Plaintiffs,

v.

AK Steel Corp. Retirement Accumulation
Pension Plan,

- and -

AK Steel Corporation Benefit Plans
Administrative Committee

Defendants.

Case No. 1:02-CV-0001

District Judge Sandra S. Beckwith

Magistrate Judge Timothy S. Black

**[PROPOSED] NOTICE OF PENDENCY OF CLASS ACTION,
CLASS ACTION DETERMINATION, AND ATTENDANT MATTERS**

TO: ALL VESTED PARTICIPANTS IN THE AK STEEL CORPORATION
(FORMERLY ARMCO INC.) RETIREMENT ACCUMULATION
PENSION PLAN WHO RETIRED OR WERE TERMINATED FROM
EMPLOYMENT ON OR AFTER JANUARY 1, 1995 AND WHO
RECEIVED THEIR PENSION BENEFITS UNDER THE PLAN IN THE
LUMP SUM FORM OF PAYMENT ON OR BEFORE APRIL 1, 2005.

**PLEASE READ THIS NOTICE CAREFULLY.
YOUR RIGHTS MAY BE AFFECTED BY THIS CLASS ACTION.**

By order of the U.S. District Court for the Southern District of Ohio, Western
Division, ("the District Court"), Honorable Sandra S. Beckwith presiding, you are hereby
notified of the pendency of this class action, captioned *John D. West, et al. v. AK Steel*

Corp. Retirement Accumulation Pension Plan, et al. (“the West case” or “class action”).

If you are a member of the Class described in this Notice, your rights may be affected by this class action.

I. THE NATURE OF THE *WEST* CASE

The Complaint that initiated the West case was filed on January 2, 2002. Some of the determinations thus far made by the District Court in this class action are described in Section II, below.

The named plaintiff in this class action is John D. West. The defendants are (1) the AK Steel Corporation (formerly Armco Inc.) Retirement Accumulation Pension Plan (“the Plan”), a part of the AK Steel Corporation (formerly Armco Inc.) Noncontributory Pension Plan, and (2) the AK Steel Corporation Benefit Plans Administrative Committee.

Mr. West, on his own behalf and on behalf of the members of the Class described in this Notice, alleges that the defendants violated the Employee Retirement Income Security Act (“ERISA”) and the Internal Revenue Code (“IRC”) by incorrectly calculating the lump-sum distributions of pension benefits to employees whose employment with AK Steel ended on or after January 1, 1995. Mr. West alleges that some of these employees’ lump sum distributions were lower than they were entitled to receive.

The defendants deny these allegations, deny that they have violated any law, and deny all liability. Further, the defendants assert that their calculations of the challenged lump-sum distributions of pension benefits were in accordance with the Plan and applicable law.

II. THE CLASS ACTION DETERMINATION

On March 9, 2004, the District Court certified the West case as a class action, with named plaintiff John D. West serving as the Class representative, on behalf of a

Class defined as follows:

All vested participants in the AK Steel Corporation (formerly Armco Inc.) Retirement Accumulation Pension Plan who retired or were terminated from employment on or after January 1, 1995 and who received their pension benefits under the Plan in the lump sum form of payment on or before April 1, 2005.

If you come within this definition and wish to participate in this class action, you do not need to do anything. You are automatically a Class member. If you come within the definition and you do not wish to participate in this class action, you must submit a written request to be excluded from the Class, in accordance with the instructions set forth below.

III. RULINGS AND ISSUES IN THE *WEST* CASE

On April 8, 2004, the District Court granted plaintiffs' motion for partial summary judgment on the issue of liability, finding that the manner in which class members' lump sum distributions were calculated under the Plan violated ERISA and the Internal Revenue Code. Currently pending with the Court is a motion by the plaintiffs, and a separate motion by the defendants, for partial summary judgment as to the amount of the underpayment, if any, and the amount of pre-judgment interest, if any, owed to each class member under the District Court judgment. Also pending before the Court is a motion by the defendants alleging that 92 class members are not entitled to a recovery because they signed general releases in exchange for severance benefits at the time of their termination from employment. This motion alternatively argues that the 92

individuals should be excluded from the Class. At the conclusion of the proceedings in this Court, Defendants will have the right to appeal the determination that they incorrectly calculated class members' lump sum pension distributions, and both parties will have the right to appeal the determination regarding the calculation of underpayments if they disagree with that determination.

IV. ELECTIONS BY CLASS MEMBERS

If you wish to participate as a Class member, no action on your part is necessary at this time. If you participate as a Class member, you will not be obligated to advance attorneys' fees or expenses during the course of this class action. However, the Court may award fees or expenses to class counsel to be paid out of your recovery, if any. In addition, if you participate as a Class member, you will be bound by the final judgment in this class action, whether that final judgment is in favor of Mr. West and the Class or in favor of the defendants.

If you do **not** wish to participate as a Class member, you must timely submit a written request to be excluded from the Class. A written request to be excluded from the Class must include all of the following: the Class member's name; the Class member's mailing address; a telephone number at which the Class member may be reached during the day; and the statement "I want to be excluded from the West case."

To be timely, a written request to be excluded from the Class must be postmarked on or before **[a date to be determined by Court Order]**, and must be mailed, with sufficient postage prepaid and affixed, to: Office of the Clerk, United States District Court, Southern District of Ohio - Western Division, Potter Stewart U.S. Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202.

If you timely submit a notice that you wish to be excluded from the Class in the manner described in the preceding two paragraphs, then you will not share in any money recovered by or on behalf of the Class, but you will not be bound by the judgment in this class action.

V. IMPORTANT ADDITIONAL INFORMATION

The attorney designated by the Court to serve as class counsel, and to whom inquiries regarding the matters addressed in this Notice may be directed, is:

Thomas R. Theado
Gary, Naegle & Theado, LLC
446 Broadway
Lorain, Ohio 44052-1797
(440) 244-4809

You do not need to retain your own attorney in order to participate as a member of the Class. A Class member who does not request exclusion from the Class, however, may elect to enter an appearance in this class action through her/his own attorney, at her/his own expense, by having that attorney enter an appearance in this class action on or before the date, and in the manner, set forth in Part IV, above, for the submission of written requests to be excluded from the Class.

The pleadings and other related records in this class action may be examined and photocopied during regular office hours at the Office of the Clerk at the address set forth in Part IV, above. Please do not telephone this Court or the Office of the Clerk. You may submit your inquiries to this Court in writing, and/or you may direct your inquiries to the Trial Counsel representing Mr. West and the Class in this class action.

IMPORTANT: You should write to class counsel Thomas R. Theado, at his address as given above:

- If you received this Notice at an address different from the address to which it was mailed, or
- If your address changes in the future, or
- If you did not receive a Notice by mail but nevertheless believe you are a Class member.